

February 22, 2013

To: Executive Board

Subject: **Possible Advance Payment for Bus Purchase - REVISED**

Recommendation

Direct the Executive Director to negotiate terms and conditions with North American Bus Industries (NABI) to incorporate an advance payment of \$2,062,252 in our Agreement No. 09-001 with NABI for the procurement of 34 buses and provide direction regarding bonding requirements.

Analysis

At the time the agenda was posted, it was anticipated that \$5.3 million might lapse. Upon further studying the requirement of Proposition 1B, it has been determined that only \$2.1 million is at risk of lapsing. Accordingly, the item and recommendation has been revised.

Federal and local grant funds totaling \$43 million have been programmed for Park & Ride facilities in the San Gabriel Valley over the past several years. Most grant guidelines stipulate that grant funds must be obligated within three years after the grant has been awarded to the agency. If it appears that a project for which grant funds have been committed will not move forward within the three-year timeframe, those grant funds can be reprogrammed to another project within the same three-year window. After that three year period, committed grants funds can only be used for the committed project or they must be returned to the granting agency.

The \$43 million currently budgeted for five Park & Ride facilities was based on estimates to ensure adequate funding would be available should the various Park & Ride projects identified by our organization be completed. The table below lists the projects and the approved budget/funding.

<u>Project Name</u>	<u>Approved Budget/Funding</u>
City of Industry Park & Ride	\$14,904,300
City of Azusa Park & Ride	\$9,240,400
West Covina Mall Park & Ride	\$12,938,310
West Covina Transit Center	\$5,000,000
City of Diamond Bar Park & Ride	\$1,250,000

The City of Industry Park & Ride is currently being constructed at an estimated cost of \$11 million. The other projects are at different stages and it appears unlikely that the budgeted funding will be used within the required three-year period. The \$4.0 million

surplus from the City of Industry Park & Ride project places Foothill Transit in jeopardy of having to return grant funds if funds are not reprogrammed to another project.

The strategy of reprogramming older funding sources between the various San Gabriel Park & Ride projects without committing the funds to a specific Park & Ride project location has worked well when the park & ride projects that are identified are moving forward. That strategy only works, however, when eligible projects are available between which those funds can be transferred. Proposition 1B Bond funding (local funding) in the amount of \$2,062,252 million are currently programmed for Park & Ride facilities and these funds are scheduled to expire/lapse on June 30, 2013.

It is unlikely that these funds will be able to be utilized for a park & ride within the San Gabriel Valley prior to June 30, 2013. The only major capital project on the horizon is the purchase of 34 replacement CNG buses, for which an order has already been placed. The possibility exists to reprogram the \$2.1 million in Proposition 1B funds from the Park & Ride projects to the Bus Replacement project. However, the replacement buses will not be delivered until October to November 2013. An option to allow the use of these funds before they expire/lapse is to structure an advance payment with the bus manufacturer. If authorized, Agreement No. 09-001 with NABI would need to be modified to incorporate an advance payment including contractual safeguards to protect Foothill Transit.

We could request a bond for this advance payment. In considering a bond requirement, there are two types of risk that could be considered:

1. NABI runs into difficulty producing acceptable buses
2. NABI runs into financial difficulty

The first risk is largely mitigated in that this is essentially a repeat order given that NABI has previously built this type of bus for Foothill Transit. The second risk is somewhat mitigated by the fact that NABI currently has a much larger bond (\$30M) from its surety for a different order that completes delivery after the Foothill Transit deliveries. While this would not help Foothill in the case of default, it would suggest that NABI has been deemed “creditworthy” for a much larger order of equipment. In light of these factors, a bond is not specifically suggested by staff; however, the Board may wish to include a bond requirement to further mitigate risk.

If the Board elects to proceed with the advance payment to NABI for these buses, \$2.1 million in California Proposition 1B funding would be used to make the payment. These funds are currently programmed for the Park and Ride projects and are at risk of lapsing. Other funding, Federal or local will be reprogrammed for the Park and Ride projects to replace the Proposition 1B funding being used for buses.

Executive Board Meeting – 02/22/13
Possible Advance Payment for Bus Purchase
Page 3

In preliminary discussions with NABI, Foothill Transit has been offered a discount on the 34 bus order if we make payment by March 15, 2013. This discount is expected to be less than \$2,000 per bus and will be further reduced if a bond is required.

Budget Impact

There would be no budget impact if the funding is reprogrammed for the procurement of the 34 buses and an advance payment is authorized by the Executive Board. Proposition 1B funds would be used for the bus purchase and other funds would be used to backfill the reallocation of these funds to keep the Park and Ride projects funded at their current levels. In the event the Executive Board chooses not to authorize an advance payment for the bus procurement, Foothill Transit's grant funding will be reduced by \$2.1 million.

Sincerely,



Richard Hasenohrl
Director of Finance



Doran J. Barnes
Executive Director

February 22, 2013

To: Executive Board

Subject: **Possible Advance Payment for Bus Purchase**

Recommendation

Direct the Executive Director to negotiate terms and conditions with North American Bus Industries (NABI) to incorporate an advance payment of \$5,332,754 in our Agreement No. 09-001 with NABI for the procurement of 34 buses and provide direction regarding bonding requirements.

Analysis

Federal and local grant funds totaling \$43 million have been programmed for Park & Ride facilities in the San Gabriel Valley over the past several years. Most grant guidelines stipulate that grant funds must be obligated within three years after the grant has been awarded to the agency. If it appears that a project for which grant funds have been committed will not move forward within the three-year timeframe, those grant funds can be reprogrammed to another project within the same three-year window. After that three year period, committed grants funds can only be used for the committed project or they must be returned to the granting agency.

The \$43 million currently budgeted for five Park & Ride facilities was based on estimates to ensure adequate funding would be available should the various Park & Ride projects identified by our organization be completed. The table below lists the projects and the approved budget/funding.

<u>Project Name</u>	<u>Approved Budget/Funding</u>
City of Industry Park & Ride	\$14,904,300
City of Azusa Park & Ride	\$9,240,400
West Covina Mall Park & Ride	\$12,938,310
West Covina Transit Center	\$5,000,000
City of Diamond Bar Park & Ride	\$1,250,000

The City of Industry Park & Ride is currently being constructed at an estimated cost of \$11 million. The other projects are at different stages and it appears unlikely that the budgeted funding will be used within the required three-year period. The \$4.0 million surplus from the City of Industry Park & Ride project places Foothill Transit in jeopardy of having to return federal grant funds if funds are not reprogrammed to another project.

The strategy of reprogramming older funding sources between the various San Gabriel Park & Ride projects without committing the funds to a specific Park & Ride project location has worked well when the park & ride projects that are identified are moving



forward. That strategy only works, however, when eligible projects are available between which those funds can be transferred. Proposition 1B Bond funding (local funding) in the amount of \$5.3 million are currently programmed for Park & Ride facilities and these funds are scheduled to expire/lapse on June 30, 2013.

It is unlikely that these funds will be able to be utilized for a park & ride within the San Gabriel Valley prior to June 30, 2013. The only major capital project on the horizon is the purchase of 34 replacement CNG buses, for which an order has already been placed. The possibility exists to reprogram the \$5.3 million in Proposition 1B funds from the Park & Ride projects to the Bus Replacement project. However, the replacement buses will not be delivered until October to November 2013. An option to allow the use of these funds before they expire/lapse is to structure an advance payment with the bus manufacturer. If authorized, Agreement No. 09-001 with NABI would need to be modified to incorporate an advance payment including contractual safeguards to protect Foothill Transit.

In preliminary discussions with NABI, Foothill Transit has been offered a \$4,600 per bus discount on the 34 bus order if we make payment by March 15, 2013. We could request a bond for this advance payment, which would like reduce the discount to \$2,000 per bus. In considering a bond requirement, there are two types of risk that could be considered:

1. NABI runs into difficulty producing acceptable buses
2. NABI runs into financial difficulty

The first risk is largely mitigated in that this is essentially a repeat order given that NABI has previously built this type of bus for Foothill Transit. The second risk is somewhat mitigated by the fact that NABI currently has a much larger bond (\$30M) from its surety for a different order that completes delivery after the Foothill Transit deliveries. While this would not help Foothill in the case of default, it would suggest that NABI has been deemed “creditworthy” for a much larger order of equipment. In light of these factors, a bond is not specifically suggested by staff; however, the Board may wish to include a bond requirement to further mitigate risk.

If the Board elects to proceed with the advance payment to NABI for these buses, \$5.3 million in California Proposition 1B funding would be used to make the payment. These funds are currently programmed for the Park and Ride projects and are at risk of lapsing. Federal funding will be reprogrammed for the Industry Park and Ride project to replace the Proposition 1B funding being used for buses.

Budget Impact

There would be no budget impact if the funding is reprogrammed for the procurement of the 34 buses and an advance payment is authorized by the Executive Board. In the



event the Executive Board chooses not to authorize an advance payment for the bus procurement, Foothill Transit's grant funding will be reduced by \$5.3 million.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Hasenohrl".

Richard Hasenohrl
Director of Finance

A handwritten signature in black ink, appearing to read "Doran J. Barnes".

Doran J. Barnes
Executive Director